

REMARKS

Claims 12 and 27 are rejected under 35 U.S.C. § 112, first paragraph; claims 1, 7-8, 11-12, 22 and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent no. 6,589,514 (“Jensen”) in view of U.S. patent no. 6,224,888 (“Vatter”); claims 1, 7-8, 11-12, 22 and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over JP 2000-095663 (“Kondo”) in view of Elkins (Hawaiian Noni, 1998) in further view of U.S. Patent Number 6,224,888 (“Vatter”); claims 1,7-8, 11-12, 22 and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tahitan Lip Balm (<http://www.noni-now.com>, copyright 1998-2003) in view of Fisher (Living Better, vol. 15 1998) in further of Kondo and in further view of Vatter; and claims 1, 7-8, 11-12, 22 and 27 are rejected under 35 U.S.C. as being unpatentable over Tahitian Noni products, in view of Kondo and in view of Vatter.

Claim Rejections Under 35 U.S.C. § 112

Claims 12 and 27 have been amended to delete or amend the recommended ranges as recommended by the Examiner. Accordingly, Applicant respectfully requests the withdrawal of the § 112 rejections.

Claim Rejections Under 35 U.S.C. § 103

At least for the reasons set forth below, Applicant submits that the relevant prior art fails both to teach or suggest all the claim limitations, and to clearly and particularly suggest the combination indicated by the Examiner; thus, Applicant’s claims are not obvious in view of the prior art references.

1. Rejection Under Jensen in view of Vatter

The invention was owned by, or subject to an obligation of assignment to, the same entity as U.S. Patent No. 6,589,514, at the time this invention was made. Accordingly, Applicant respectfully requests the § 103 rejections over Jensen in view of Vatter be withdrawn.

2. Rejection Under noni-now.com and Morinda, Inc.

Applicant respectfully submits that the previously submitted declarations indicate that the Lip Balm was not sold by noni-now.com in 1999, nor was the Lip Balm known or used by others in this country prior to being reduced to practice by the Applicant. In particular, the Applicant notes that the product referenced on the noni-now.com website is the product conceived and reduced to practice by the Applicant. Accordingly, Applicant respectfully submits that it is impossible for the others namely, Tim Olstroholm, to have advertised the existence of a product that had not yet been conceived or reduced to practice because as indicated in the affidavit, the product was not conceived or produced to practice until a date subsequent to the filing of the present application. Accordingly, Applicant respectfully requests that the § 103 rejection under noni-now.com be respectfully withdrawn.

3. Kondo by itself or in view of Elkins and Vatter

The Examiner has suggested the Applicant support or demonstrates the unexpected capacity of the claimed ranges of Noni Juice and Noni Seed Oil to produce unexpected results. Accordingly, attached please find Exhibit A, which includes research performed by the Applicant related to the unexpected efficacy of Noni Seed Oil and Noni Juice in the claimed ranges. Accordingly, Applicant respectfully submits that the claimed range of Noni Juice and Noni Seed Oil produce unexpected results which was not obvious in view of the art cited, and respectfully request the withdrawal of the 103 rejections over Kondo in view of Elkins in view of Vatter.


CONCLUSION

Applicants submit that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicants request favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

Dated this 28 day of March, 2007.

Respectfully submitted,

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